

Regular Session, 2010

HOUSE BILL NO. 216

BY REPRESENTATIVES FOIL, THIBAUT, AND WILLIAMS

SCHOOLS/CHOICE: Provides for a school choice pilot program for certain students with exceptionalities

1 AN ACT

2 To enact Part II of Chapter 43 of Title 17 of the Louisiana Revised Statutes of 1950, to be
3 comprised of R.S. 17:4031, relative to the establishment of a school choice pilot
4 program in certain parishes for certain students with exceptionalities; to provide for
5 the purpose of the program; to provide program eligibility requirements for
6 participating students and nonpublic schools; to provide for program administration,
7 implementation, and reporting; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Part II of Chapter 43 of Title 17 of the Louisiana Revised Statutes of
10 1950, comprised of R.S. 17:4031, is hereby enacted to read as follows:

11 PART II. SCHOOL CHOICE PILOT PROGRAM

12 §4031. School choice; students with exceptionalities; pilot program; establishment;
13 purpose; student eligibility; nonpublic school eligibility; administration;
14 implementation; reporting

15 A. The purpose of the pilot program established in this Section is to provide
16 certain students with exceptionalities the opportunity to attend schools of their
17 parents' choosing that provide educational services that specifically address the needs
18 of such students.

19 B.(1) The School Choice Pilot Program for Certain Students with
20 Exceptionalities, hereinafter referred to as the "program", is hereby established as a

1 two-year pilot program in each parish having a population in excess of one hundred
2 ninety thousand persons according to the most recent federal decennial census. The
3 program shall be implemented beginning with the 2011-2012 school year.

4 (2) Any student who meets all of the following criteria is an eligible student:

5 (a) The student has been evaluated by a local education agency as defined
6 in R.S. 17:1942, is determined to be in need of services for autism, a mental
7 disability, emotional disturbance, developmental delay, other health impairment,
8 specific learning disability, or traumatic brain injury, and has an Individual
9 Education Plan or a services plan in accordance with Title 34 of the Code of Federal
10 Regulations Part 300.37.

11 (b) The student is residing within a pilot program parish.

12 (c) The student is eligible to attend public school and is entering
13 kindergarten or grades one through eight.

14 (d) The student is not deemed to be gifted or talented.

15 C.(1) The state Department of Education, hereafter in this Part referred to as
16 the "department", shall administer and provide for implementation of the program
17 pursuant to rules and regulations developed and adopted for such purpose by the
18 State Board of Elementary and Secondary Education in accordance with the
19 Administrative Procedure Act. Such rules and regulations shall include procedures
20 and guidelines permitting a parent or guardian of an eligible student who chooses to
21 enroll the student in an eligible nonpublic school as provided in Subsection D of this
22 Section to apply for an educational certificate, which is to be applied to the cost of
23 educational services offered by the school and which is redeemable by the school
24 from the department upon verification from the school that the student is enrolled in
25 the school. The value of each certificate shall be determined by the department; the
26 value shall be equivalent to fifty percent of the per pupil allocation of state funds to
27 the city, parish, or other local public school district in which the eligible student is
28 residing for that school year but shall not exceed the amount of tuition charged by
29 the eligible nonpublic school. The funds to be paid for a certificate shall be divided

1 into four equal payments to be made to each participating school in September,
2 November, February, and May of each school year. Payments shall be based on per
3 pupil count dates as determined by the department.

4 (2) Any cost of educational services above the amount of the certificate
5 issued to the parent or guardian shall not be paid by the state.

6 D.(1) To be eligible to participate in the program and accept eligible students
7 for enrollment in the program, a nonpublic school shall meet all of the following
8 criteria:

9 (a) Be approved by the State Board of Elementary and Secondary Education
10 pursuant to R.S. 17:11 and have been so approved for the school year prior to the
11 school's participation in the program.

12 (b) Comply with the criteria set forth in Brumfield, et al. v. Dodd, et al. 425
13 F. Supp. 528.

14 (c) Has existed and provided educational services to students with
15 exceptionalities as defined in R.S. 17:1942, excluding students deemed to be gifted
16 or talented, for at least two years prior to participation in the program and such
17 provision of services shall be pursuant to an established program in place at the
18 school that includes instruction by teachers holding appropriate certification in
19 special education or other appropriate education or training as defined by the
20 department and that is in accordance with a student's Individual Education Plan and
21 rules and regulations developed as required in this Section.

22 (2) In accordance with time lines as determined by the department, each
23 eligible nonpublic school choosing to participate in the program shall inform the
24 department of the types of student exceptionalities as defined in R.S. 17:1942 that
25 the school is willing to serve. Each school may determine the number of eligible
26 students it will accept in any year of program participation and may establish criteria
27 for enrollment of students. Each school shall have discretion in enrolling eligible
28 students for participation in the program and no school shall be required to accept
29 any eligible student.

1 (3) No eligible nonpublic school shall require any student seeking to enroll
2 and participate in the program to take an entrance examination.

3 (4) Prior to enrollment, each eligible nonpublic school shall inform the
4 parent or guardian of an eligible student of all rules, policies, and procedures of such
5 school including but not limited to academic policies and disciplinary policies and
6 procedures. Enrollment of an eligible student in the school shall constitute
7 acceptance of such rules, policies, and procedures by the parent or guardian
8 individually and on behalf of the eligible student. An eligible student may be
9 expelled from the school in accordance with the school's discipline policies or may
10 be disqualified from enrollment if the student is no longer eligible for the program
11 as determined by the department.

12 (5) Enrollment of eligible students shall be completed not later than April
13 thirtieth of the school year prior to the year of participation by the school, and the
14 school shall submit a list of all eligible students enrolled in the school to the
15 department not later than June first of such year.

16 E. The department shall submit a report to the House Committee on
17 Education and the Senate Committee on Education not later than August 1, 2012, on
18 the implementation of the program. The report shall include but shall not be limited
19 to the number of eligible students participating in the program, the name of each
20 participating nonpublic school, the number of eligible students each such school
21 enrolled for participation in the program, and the department's recommendations as
22 to whether the pilot program should continue on a pilot basis or be implemented
23 statewide after the initial two-year pilot has ended.

24 Section 2. The Louisiana State Law Institute is authorized and directed to designate
25 R.S. 17:4011 through 4025 as Part I of Chapter 43 of Title 17 of the Louisiana Revised
26 Statutes of 1950, to be entitled "Student Scholarships for Educational Excellence Program".
27 The Louisiana State Law Institute is further authorized and directed to change the title of
28 Chapter 43 to "School Choice Scholarships".

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Foil

HB No. 216

Abstract: Establishes the School Choice Pilot Program for Certain Students with Exceptionalities in certain parishes beginning with the 2011-2012 school year. Provides program eligibility requirements for students and participating nonpublic schools. Provides for program administration and implementation by the state Dept. of Education.

Proposed law establishes the School Choice Pilot Program for Certain Students with Exceptionalities as a two-year pilot program beginning with the 2011-2012 school year in any parish with a population in excess of 190,000 according to the most recent federal decennial census.

Provides for student eligibility as follows:

- (1) The student has been evaluated by a local education agency, is determined to be in need of services for autism, a mental disability, emotional disturbance, developmental delay, other health impairment, specific learning disability, or traumatic brain injury, and has an Individual Education Plan (IEP) or a services plan in accordance with specified federal regulations.
- (2) The student is residing in a pilot program parish.
- (3) The student is eligible to attend public school and is entering kindergarten or grades one through eight.
- (4) The student is not deemed to be gifted or talented.

Provides for nonpublic school eligibility as follows:

- (1) Be approved by the State Board of Elementary and Secondary Education and have been so approved for the school year prior to the school's participation in the program.
- (2) Comply with the criteria set forth in *Brumfield, et al. v. Dodd, et al.* 425 F. Supp. 528.
- (3) Has existed and provided educational services to students with exceptionalities, excluding gifted or talented students, for at least two years prior to participation in the program pursuant to an established program that includes instruction by teachers holding certification in special education or other appropriate education or training as defined by the department and that is in accordance with a student's IEP and pilot program rules and regulations.

Provides for program administration and implementation by the state Dept. of Education pursuant to rules and regulations adopted by the State Board of Elementary and Secondary Education. Provides that such rules and regulations shall include procedures and guidelines permitting a parent or guardian of an eligible student who chooses to enroll the student in an eligible nonpublic school to apply for an educational certificate for the cost of educational services offered by the school. Requires certain verification from the school in order to redeem the certificate. Specifies that the value of each certificate shall be determined by the

department and shall be an amount equivalent to 50% of the per pupil allocation of state funds to the local public school district in which the eligible student is residing for that school year but shall not exceed the tuition amount charged by the eligible nonpublic school. Provides that payments shall be made at four specified times and shall be based on certain per pupil count dates. Requires that any cost above the amount of the certificate issued to the parent/guardian shall not be paid by the state.

Relative to requirements and authority for eligible nonpublic schools, proposed law provides that each such school:

- (1) Shall inform the department of the types of student exceptionalities it is willing to serve.
- (2) May determine the number of eligible students it will accept in any year of program participation and may establish enrollment criteria.
- (3) Has discretion in enrolling eligible students.
- (4) Shall not be required to accept any eligible student.
- (5) Shall not require any eligible student to take an entrance examination.
- (6) Prior to enrollment, shall inform the parent/guardian of an eligible student of all rules, policies, and procedures of the school including academic policies and disciplinary policies and procedures.
- (7) Shall annually submit a list of all eligible students enrolled in the school to the department.

Provides that enrollment of an eligible student in the school shall constitute acceptance of the school's rules, policies, and procedures by the parent/guardian. Provides that an eligible student may be expelled from the school or disqualified from enrollment if he is no longer eligible for the program.

Provides that enrollment of eligible students shall be completed by April 30th of the school year prior to the year of participation.

Requires the department to submit a report to the House and Senate education committees by Aug. 1, 2012, on the implementation of the program. Requires certain information to be contained in the report including the department's recommendations as to whether the pilot program should continue on a pilot basis or be implemented statewide.

(Adds R.S. 17:4031)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Education to the original bill.

1. Changed pilot program beginning implementation date from the 2010-2011 school year to the 2011-2012 school year.
2. Relative to student eligibility, added requirement that the student shall be one that has been evaluated by a local education agency, is determined to be in need of services, and has an Individual Education Plan (IEP), instead of a student with an exceptionality as defined in present law.

3. Relative to program procedures and guidelines permitting a parent/guardian to apply for and receive an educational certificate, deleted "and receive".
4. Required verification from the eligible nonpublic school that the eligible student is enrolled in the school in order to redeem an educational certificate.
5. Provided that the value of an educational certificate shall not exceed the tuition amount charged by the eligible nonpublic school.
6. Provided for certificate payments to be made in four payments at specified times.
7. Provided that payments shall be based on certain per pupil count dates.
8. Relative to nonpublic school eligibility, added requirement that the school has existed and provided educational services to students with exceptionalities, excluding gifted or talented students, for at least two years prior to participation in the program pursuant to an established program that includes instruction by teachers certified in special education and that is in accordance with a student's IEP and pilot program rules and regulations.
9. Added requirements and authority for eligible nonpublic schools relative to: providing certain information to the department and parents/guardians, determining the number of eligible students to accept, establishing enrollment criteria, discretion in accepting and enrolling eligible students, and prohibiting entrance exams.
10. Deleted emergency effective date provision.

House Floor Amendments to the engrossed bill.

1. Changed the definition of eligible student to a student who is determined to be in need of services for autism, a mental disability, emotional disturbance, developmental delay, other health impairment, specific learning disability, or traumatic brain injury and has an IEP or a services plan in accordance with certain federal regulations. Prior to amendment, defined eligible student as a student in need of services and who has an Individual Education Plan.
2. Relative to nonpublic school eligibility, added that the school's established special education program may also include instruction by teachers holding other appropriate education or training as defined by the department rather than only by teachers with special education certification.